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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,797	09/28/2001	Toshiki Kindo	P21481	2866
7055	7590	08/29/2006	EXAMINER	
GREENBLUM & BERNSTEIN, P.L.C.			GART, MATTHEW S	
1950 ROLAND CLARKE PLACE			ART UNIT	
RESTON, VA 20191			PAPER NUMBER	
			3625	

DATE MAILED: 08/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/964,797	<b>Applicant(s)</b> KINDO ET AL.	
	<b>Examiner</b> Matthew S. Gart	<b>Art Unit</b> 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 32-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/21/2006</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Prosecution History Summary***

- Claims 1-31 have been cancelled.
- Claims 32-37 have been added.
- Claims 32-37 are currently pending and rejected as set forth below.

### ***Claim Objections***

Claim 33 is objected to because of the following informalities:

- The preamble of claim 33 contains minor typographical errors, and should be amended to recite, "The market research system according to claim 32..."
- Claim 33, line 9, contains improper punctuation.

Appropriate correction is required.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on April 21<sup>st</sup>, 2006 has been considered by the Examiner.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 32-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Peckover (U.S. Patent No. 6,119,101).**

Referring to claim 32. Peckover discloses a market research system used in a market research network including a seller terminal (Peckover: Fig. 1, "Provider User 21"), a market research system (Peckover: Fig. 1, "Agent System 10") that receives a market research order from the seller terminal, and a plurality of consumer terminals (Peckover: Fig 1, "Consumer User 20") each having a storage device (Peckover: Fig. 2) that stores a personal profile with associating keywords and evaluation values for the keywords and reflecting consumer preferences (Peckover: Fig. 5A and Fig. 5B), the evaluation values comprising, for each keyword, a positive score corresponding to a number of times consumers have indicated interest in merchandise information associated with the keyword and a negative score corresponding to a number of times consumers have indicated no interest in the merchandise information (Peckover: column 19, lines 3-32), the market research system comprising:

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- A search distributor that distributes a search signal to the seller terminal, the search signal including a keyword associated with merchandise information for merchandise subject to market research and a merchandise ID (Peckover: column 21, lines 15-67);
- A reply signal processor that receives a reply signal from the consumer terminal, the reply signal including an evaluation value for the merchandise information, the evaluation value being determined based upon the positive score and the negative score in the personal profile corresponding to the keyword contained in the search signal (Peckover: column 21, lines 15-67); and
- A market research controller that processes the evaluation values of the reply signals for the merchandise information from the consumer terminals, generates a marketing research report signal summarizing the evaluation values for the merchandise information from the consumer terminals a market research results to the seller terminal that is a source of the market research order (Peckover: column 21, lines 15-67).

Referring to claim 33. Peckover further discloses a market research system

wherein:

- The evaluation values are stored together with the personal profile, the personal profile corresponding to the keywords contained in the merchandise information distributed from a merchandise information server that distributes the

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merchandise information according to a request from the consumer terminal  
(Peckover: column 19, lines 3-32);

- Said merchandise information server being configured to distribute the merchandise information from a merchandise information storage in which the merchandise information presented by the seller terminal is stored (Peckover: column 21, lines 15-67); and
- Said search signal distributor being configured to obtain the merchandise information regarding the merchandise subject to the market research from said merchandise information storage to generate the search signal (Peckover: column 21, lines 15-67).

Referring to claim 34. Peckover further discloses a system, wherein, when market research is requested by the seller terminal, an ability of the seller to pay for the research is confirmed (Peckover: column 16, lines 9-24).

Referring to claim 35. Peckover further discloses a system, wherein the search signal and the reply signal are encrypted before being transmitted (Peckover: column 27, lines 51-64).

Referring to claim 36. Peckover further discloses a system, wherein the market research network further includes a merchandise information distributor that stores the

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merchandise information received from the seller terminal, said market research system comprising:

- A search signal generator that obtains merchandise information corresponding to the merchandise ID from the merchandise information storage device and generates the search signal (Peckover: column 21, lines 15-67); and
- A merchandise information reliability surveyor that is configured to receive a consumer ID, the merchandise ID and a seller ID contained in a merchandise order, forward the consumer ID, the merchandise ID and the seller ID to the search signal generator, and to forward the reply signal that the market research controller has received in accordance with the merchandise ID and the seller ID, the seller terminal identified by the seller ID (Peckover: column 21, lines 15-67); and
- The search signal distributor being configured to distribute the search signal to the consumer terminal having a storage device that stores the personal profile of the consumer identified by the consumer ID (Peckover: column 21, lines 15-67).

Referring to claim 37. Peckover further discloses a market research system, wherein the merchandise information distributor further comprises an availability determiner that queries the consumer terminal as to whether the personal profile is available, and, when the personal profile is available, retrieves the personal profile from the storage device and provides the personal profile to the seller terminal that requests the personal profile (Peckover: column 21, lines 15-67).

***Response to Arguments***

Applicant's arguments filed 6/23/2006 have been fully considered but they are moot in view of the new grounds of rejection.

The Examiner notes, claims 16-17 were canceled pursuant to applicant's response filed on 6/23/2006. Claims 16-17 were previously withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction requirement in the reply filed on 12/30/2005. Applicant argued that the search required for claims 16-17 would also be required for each of the other individual groups because all of the groups are classified in the same class and subclass. The Examiner previously noted, even though the groups were classified together, each invention was shown to encompass divergent subject matter and the search required for Group II was not required for each of the other individual groups causing a serious burden to the examiner.



***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew S. Gart whose telephone number is 571-273-3955. The examiner can normally be reached on M-F, 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MSG  
Primary Examiner  
August 24, 2006